

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. The petitioner filed an application for health coverage on or about March 18, 2009. In her application, petitioner noted that she believed she was eligible for VHAP because her twelve month disqualification period had ended. In addition, she noted that her husband was losing his health

insurance at the end of March because his company could no longer afford health insurance coverage for its employees.

3. The Department sent a Notice of Decision dated April 2, 2009. The Department found the petitioner eligible for VHAP and continued Dr. Dynasaur coverage for the minor child. The Department denied both VHAP and CHAP for petitioner's husband because his insurance ended in the past twelve months.

4. The petitioner appealed the denial of VHAP and CHAP for her husband.

ORDER

The Department's decision is affirmed.

REASONS

The Vermont Health Access Program (VHAP) was created to "provide health care coverage for uninsured or underinsured low income Vermonters". 33 V.S.A. § 1973(b). W.A.M. § 4000. The VHAP program provides health insurance for households whose countable income is equal to or less than 185% of the Federal Poverty Level (FPL).

Health care coverage was further expanded when the Vermont Legislature passed Act 191, An Act Relating to Health Care Affordability in 2006 that includes premium assistance

for uninsured adult Vermonters who are not eligible for the Vermont Health Access Program (VHAP) and whose income is equal to or less than 300% of the Federal Poverty Level (FPL).

A major criterion for both VHAP and CHAP is that the applicant fit the definition of "uninsured". Both programs are Medicaid waiver programs that have been approved by the Department of Health and Human Services through its Centers for Medicare and Medicaid Services. The waiver was amended on October 2, 2007; the amendment added the following eligibility criteria:

To be eligible for premium assistance, adults not otherwise eligible for OVHA programs must have been uninsured for at least 12 months, unless they lost coverage due to one of the following reasons: loss of employment; death of the principal insurance policyholder; divorce or dissolution of a civil union; no longer qualified as a dependent under the plan of a parent or caretaker relative; no longer qualifying for COBRA, VIPER, or other state continuation coverage; or a college-sponsored insurance plan became unavailable because the individual graduated, took a leave of absence, or otherwise terminated studies.

The applicable VHAP regulation defines uninsured at W.A.M. § 4001.2(c) to include:

An individual who lost private insurance or employer-sponsored coverage during the prior 12 months for the following reasons:

- (1) The individual's coverage ended because of:

(i) Loss of employment, including a reduction in hours that results in eligibility for employer-sponsored coverage, unless the employer has terminated its employees or reduced their coverage for the primary purpose of discontinuing employer-sponsored coverage and establishing their eligibility for Catamount Health.
...

The applicable CHAP regulations at W.A.M. § 4101(1) mirror the VHAP regulations.

The impetus for the twelve month rule was to prevent employers from ending employee-sponsored health insurance coverage and dumping those individuals into the State programs for the uninsured or underinsured. Events have overtaken the ability of employers to maintain health insurance during the current recession. Unfortunately, the regulations did not contemplate this possibility and do not have the flexibility to cover employees losing employee-sponsored health insurance because that insurance is no longer economically feasible.

An applicant who loses employer-sponsored health insurance is not considered "uninsured" under the regulations until twelve months have passed. Fair Hearing Rule 1000.4D states that "[t]he Board will not reverse or modify a decision that is found to be in compliance with the

applicable law and policy even though the Board might disagree with the results effected by that decision."

Because the Department has acted in conformance with applicable law, the Department's decision is affirmed. 3
V.S.A. § 3091(d).

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